

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

ROCHELLE SMITH STERNER,

Plaintiff,

vs.

CAROLYN W. COLVIN, Acting  
Commissioner of Social Security,

Defendant.

CV 12-208-M-DLC

ORDER

**FILED**

APR 30 2014

Clerk, U.S. District Court  
District Of Montana  
Missoula

Plaintiff Rochelle Smith Sterner brought this case under 42 U.S.C. § 405(g) seeking judicial review of the Commissioner of Social Security's decision denying her application for disability insurance benefits and supplemental security income. Each party filed a motion for summary judgment, and United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation on April 10, 2014. Judge Lynch recommended that: (1) Sterner's motion be denied; (2) the Commissioner's motion be granted; and (3) the Commissioner's decision be affirmed.

Sterner did not timely object to the Findings and Recommendation, and so has waived her right to de novo review. 28 U.S.C. § 636(b)(1). The Court will review the Findings and Recommendation for clear error. *McDonnell Douglas*

*Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

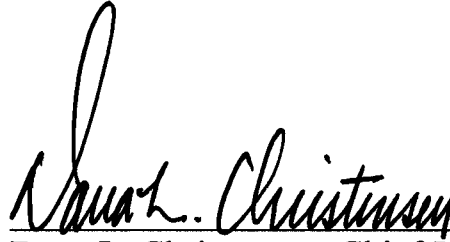
There is no clear error in Judge Lynch’s Findings and Recommendation. Judge Lynch did not clearly err in finding that the ALJ provided specific and legitimate reasons for rejecting the opinions of Dr. White and Dr. Mahoney, and reasonably crediting the opinion of Dr. Enright. Likewise, Judge Lynch did not clearly err in finding that the ALJ cited clear and convincing reasons in support of his adverse credibility determination regarding Sterner’s testimony. Finally, Judge Lynch did not clearly err in finding that the ALJ permissibly discounted Lea Hamilton’s statement, and that “because [Shalada] Bengston’s statement largely reiterated Sterner’s own testimony, which the ALJ properly discredited, any error on the ALJ’s part in failing to provide additional reasons was harmless” (Doc. 21 at 19). Accordingly,

IT IS ORDERED that:

- (1) Judge Lynch’s Findings and Recommendation (Doc. 21) is  
ADOPTED IN FULL;
- (2) Plaintiff’s motion for summary judgment (Doc. 14) is DENIED;
- (3) Defendant’s motion for summary judgment (Doc. 17) is GRANTED;

(4) This case is now closed. The Clerk of Court is directed to enter judgment in favor of the Defendant.

Dated this 30<sup>th</sup> day of April, 2014.

A handwritten signature in black ink, reading "Dana L. Christensen". The signature is written in a cursive style with a large, looped initial "D".

Dana L. Christensen, Chief Judge  
United States District Court